

THOMPSONMCMULLAN, P.C.  
Adam R. Nelson, Esquire (VSB No. 39137)  
100 Shockoe Slip, 3<sup>rd</sup> Floor  
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Voice: (804) 649-7545  
Facsimile: (804) 780-1813  
Email: anelson@t-mlaw.com

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION

IN RE: )  
 )  
CIRCUIT CITY STORES, INC. ) Case No. 08-35653  
 ) Chapter 11  
Debtor. )  
 )

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**NOTICE TO CONTINUE PERFECTION OF MECHANIC'S LIEN**  
**PURSUANT TO SECTION 546(b)**

TO DEBTOR IN POSSESSION CIRCUIT CITY STORES, INC. OTHER PARTIES IN  
INTEREST AND THEIR ATTORNEYS OF RECORD HEREIN:

PLEASE TAKE NOTICE that, pursuant to 11 U.S.C. §§ 546(b) and 362(b)(3), creditor North American Roofing Services, Inc. ("NARS") hereby continues to have perfected mechanic's lien rights on certain real property in which Circuit City Stores, Inc. (the "Debtor") holds a leasehold interest located in Shelby County, Alabama, including improvements located thereon, located at or on 5291 Highway 280 South, Birmingham, Alabama 35242, and commonly known as Brook Highland Plaza, Circuit City Store number 3806.

A true and correct copy of the mechanic's lien recorded by NARS in the official records of Shelby County, Alabama, in the total amount listed thereon plus interest set forth therein, for labor, services, equipment and/or materials furnished to the Debtor

described therein, is attached hereto as Exhibit "A" and incorporated herein by this reference. To the extent that the automatic stay of 11 U.S.C. §362(a) may have stayed recordation of, or commencement of an action to enforce, NARS' mechanic's lien as to such property of the Debtor, NARS gives this notice pursuant to 11 U.S.C. § 546(b) in lieu of any such stayed act and as an expression of NARS's intent to enforce its lien..

PLEASE TAKE FURTHER NOTICE THAT by virtue of 11 U.S.C. § 546(b), and Alabama Code § 35-11-211 the perfection of NARS' mechanic's lien relates back to the date when work commenced on or before October 1, 2008, a date which precedes the filing of the petition for bankruptcy in this case.

DATED: April 3, 2009

By: /s/ Adam R. Nelson

Adam R. Nelson, Esquire  
ThompsonMcMullan, P.C.  
100 Shockoe Slip, 3rd Floor  
Richmond, Virginia 23219  
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*Local Counsel for North American  
Roofing Services, Inc.*

Max A. Moseley, Esq.  
Lindan J. Hill, Esq.  
Johnston Barton Proctor & Rose  
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[ljh@johnstonbarton.com](mailto:ljh@johnstonbarton.com)

*Counsel for North American Roofing  
Services, Inc.*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3<sup>rd</sup> day of April, 2009, a copy of the foregoing NOTICE TO CONTINUE PERFECTION OF MECHANIC'S LIEN PURSUANT TO SECTION 546(b) was (1) filed electronically on the Court's ECF System and thereby served on all parties who are ECF participants in this case, and (2) sent by first-class mail, postage prepaid, to those parties listed on the Service List below at the addresses listed therein.

/s/ Adam R. Nelson  
Adam R. Nelson

Service List

Circuit City Stores, Inc.  
9950 Mayland Drive  
Richmond, VA 23233

*Debtor*

Bruce H. Besanko  
9950 Mayland Drive  
Richmond, Virginia 23233

*Debtor Designee*

W. Clarkson McDow, Jr.  
Office of the U.S. Trustee  
701 E. Broad Street, Suite 4304  
Richmond, Virginia 23219

*Chapter 11 Trustee*

Robert B. Van Arsdale  
Office of the U.S. Trustee  
701 East Broad Street, Suite 4304  
Richmond, Virginia 23219

*Counsel for Chapter 11 Trustee*

Alan J. Kornfeld  
Brad R. Godshall  
Pachulski Stang Ziehl & Jones LLP  
10100 Santa Monica Blvd.  
11<sup>th</sup> Floor  
Los Angeles, CA 90067-4100

Gillian N. Brown  
Jeffrey N. Pomerantz  
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10100 Sants Monica Blvd.  
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Los Angeles, CA 9006

John D. Fiero  
Pachulski Stang Ziehl & Jones, LLP  
150 California Street, 15<sup>th</sup> Floor  
San Francisco, CA 94111-4554

Daniel F. Blanks  
McGuire Woods, LLP  
9000 World Trade Center  
101 W. Main Street  
Norfolk, Virginia 23510

Dion W. Hayes  
McGuire Woods, LLP  
One James Center  
901 E. Cary Street  
Richmond, Virginia 23219

Douglas M. Foley  
McGuire Woods, LLP  
9000 World Trade Center  
101 W. Main Street  
Norfolk, Virginia 23510

Gregg M. Galardi  
Skadden Arps Slate Meagher & Flom, LLP  
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Post Office Box 636  
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McGuire Woods, LLP  
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901 East Cary Street  
Richmond, Virginia 23219

Sarah Beckett Boehm  
McGuire Woods, LLP  
One James Center  
901 East Cary Street  
Richmond, Virginia 23219

*Counsel for Debtor*

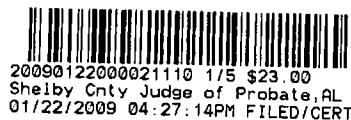
Lynn L. Tavenner  
Tavenner & Beran, PLC  
20 North Eighth Street, 2<sup>nd</sup> Floor  
Richmond, VA 23219

Paula S. Beran  
Tavenner & Beran, PLC  
20 North Eighth Street, 2<sup>nd</sup> Floor  
Richmond, VA 23219

Robert J. Feinstein  
Pachulski Stang Ziehl & Jones, LLP  
780 Third Avenue, 36<sup>th</sup> Floor  
New York, New York 10017

*Counsel for Official Committee of  
Unsecured Creditors*

Exhibit A  
(see attached)



20090122000021110 1/5 \$23.00  
Shelby Cnty Judge of Probate, AL  
01/22/2009 04:27:14PM FILED/CERT

This Instrument Prepared by  
and After Recording Return to:

Lindan J. Hill, Esq.  
Johnston Barton Proctor & Rose LLP  
Colonial Brookwood Center  
569 Brookwood Village, Suite 901  
Birmingham, Alabama 35209  
(205) 458-9400

**VERIFIED STATEMENT OF LIEN**

**STATE OF ALABAMA \*  
COUNTY OF SHELBY \***

NORTH AMERICAN ROOFING SERVICES, INC. (hereinafter "NARS") files this statement in writing, verified by the oath of Douglas Frankey, who has personal knowledge of the facts herein set forth:

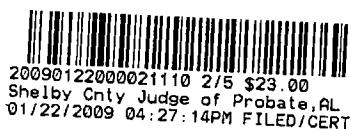
1. That NARS claims a lien upon the following property situated in Shelby County, to wit:

Lying and being in Shelby County, Alabama, and being more particularly described as that certain tract containing 57.395 acres, more or less, and designated as Lot 1 on that certain map entitled "Brook Highland Plaza" recorded in Map Book 16 at Page 102 in the Probate Office for Shelby County, Alabama

and more particularly described in Exhibit "A" attached hereto and incorporated herein.

2. The lien is claimed, separately and severally, as to the building and improvements thereon, and the said land.
3. The said lien is claimed to secure an indebtedness of \$79,868.00 which is due and owing after all just credits have been given, plus interest, through October 4, 2008, for materials used in the construction, repairing, altering or beautifying the property described hereinabove.
4. The name of the owners or proprietors of said property are GS II Brook Highland, LLC, c/o Developers Diversified of Alabama, owner and Circuit City Stores, Inc. tenant.
5. Affiant further says not.

This is the 15<sup>th</sup> day of January, 2009.



North American Roofing Services, Inc.  
Claimant

By:

Douglas Frankey

Its: Chief Financial Officer

STATE OF NORTH CAROLINA \*  
COUNTY OF BUNCOMBE \*

Before me, the undersigned authority, in and for said County in said State, personally appeared **Douglas Frankey**, who, being duly sworn deposes and says as follows: That he has personal knowledge of the facts set forth in the foregoing statement of lien, and that the same are true and correct to the best of his knowledge and belief.

Affiant

Subscribed and sworn to before me on this the 15 day of January, 2009, by said affiant.

Jura O. Norton  
Notary Public

My Commission Expires: May 10, 2009



EXHIBIT A

Legal Description of Property

Lying and being in Shelby County, Alabama, and being more particularly described as that certain tract containing 57.395 acres, more or less, and designated as Lot 1 on that certain map entitled "Brook Highland Plaza" recorded in Map Book 16 at Page 102 in the Probate Office for Shelby County, Alabama.

179365.3

Fidelity National Title Insurance Company  
of New York



*BROOK HIGHLAND PARKWAY* A

  
20090122000021110 4/5 \$23.00  
Shelby Cnty Judge of Probate, AL  
01/22/2009 04:27:14PM FILED/CERT

**EXHIBIT "A" (PHASE I)**

The Land referred to in this Commitment is described as follows:  
**PARCEL 1**

LOTS 1, 1A, 2,2A, ACCORDING TO THE BROOK HIGHLAND PLAZA RESURVEY,  
AS RECORD IN MAP BOOK IBM PAGE 99 IN THE PROBATE OFFICE OF SHELBY  
COUNTY, ALABAMA, BEING SITUATED IN SHELBY COUNTY, ALABAMA.

TOGETHER WITH ALL FO THE BENEFICIAL RIGHTS AND INTERESTS IN THE  
EASEMENT UNDER THE FOLLOWING INSTRUMENTS:

- 1). DECLARATION OF EASEMENTS AND RESTRICTIONS CONVENANTS (BROOK  
HIGHLAND DEVELOPMENT-1.35 ACRES OUT PARCEL) BY AMSOUTH BANK N.A.  
AS ANCILLARY TRUSTEE FOR NBNC NATIONAL BANK OF NORTH CAROLINA,  
AS TRUSTEE FOR THE PUBLIC EMPLOYEES RETIREMENT SYSTEM OF OHIO,  
DATED AUGUST 29, 1990, AND RECORDED IN REAL 307, PAGE 985, IN SAID  
PROBATE OFFICE.
- 2.) EASEMENT AGREEMENT DATED OCTOBER 12, 1993, BY AN BETWEEN  
AMSouth Bank N.A., AS ANCILLARY TRUSTER FOR NATIONSBANK OF  
NORTH CAROLINA, N.A. AS TRUSTEE FOR THE PUBLIC EMPLOYEES  
RETIREMENT SYSTEM OF OHIO, AND BROOK HIGHLAND LIMITED  
PARTNERSHIP, A GEORGIA LIMITED PARTNERSHIP RECORDED AS  
INSTRUMENT # 1993-32515 IN SAID PROBATE OFFICE.

**PARCEL 2**

ALL BENEFICIAL RIGHTS IN EASEMENTS GRANTED TO DEVELOPERS  
DIVERSIFIED OF ALABAMA CORP., BY THE EASEMENT AGREEMENT DATED  
DECEMBER 30, 1994, BY AND BETWEEN BROOK HIGHLAND LIMITED  
PARTNERSHIP AND DEVELOPERS DIVERSIFIED OF ALABAMA., AS RECORDED  
AS RECORDED AS INSTRUMENT NO. 1994-37773 IN PROBATE OFFICE OF  
SHELBY COUNTY, ALABAMA.

ALL BEING SITUATED IN SHELBY COUNTY, ALABAMA.

THENCE RUN NORTH 64° 18'36" WEST A DISTANCE OF 37.79 FEET TO A POINT;  
THENCE RUN NORTH 73°31'00" WEST A DISTANCE OF 110.98 FEET TO A POINT;  
THENCE RUN NORTH 56 °07'21" WEST A DISTANCE OF 73.40 FEET TO A POINT;  
LOCATED ON THE TO A POINT LOCATED ON THE EASTERLY RIGHT OF WAY  
LINE OF BROOK-HIGHLAND PARKWAY (RIGHT OF WAY VARIES);  
THENCE RUN ALONG AND COINCIDENT WITH THE EASTERLY RIGHT OF WAY  
LINE OF BROOK HIGHLAND PARKWAY NORTH 16°29'00" EAST A DISTANCE OF  
206.74 FEET TO A POINT;  
THENCE RUN ALONG THE COINCIDENT WITH THE EASTERLY RIGHT OF WAY  
LINE FO BROOK HIGHLAND PARKWAY NORTH 73°31'00" WEST A DISTANCE OF  
12.00 FEET TO A POINT; THENCE RUN ALONG AND COINCIDENT WITH THE  
EASTERLY RIGHT OF WAY LINE OF BROOK HIGHLAND PARKWAY, ALONG

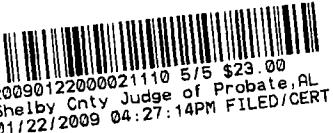


EXHIBIT "A"



**Fidelity National Title Insurance Company  
of New York**

THE ARC OF A CURVE AN ARC DISTANCE OF 254.68 FEET (SAID CURVE HAVING A RADIUS OF 310.47 FEET, A CHORD BEARING OF NORTH 39°59'00" EAST, AND A CHORD DISTANCE OF 247.60 FEET) TO A POINT; THENCE RUN ALONG AND COINCIDENT WITH THE EASTERLY RIGHT OF WAY LINE OF BROOK HIGHLAND PARKWAY NORTH 26°31'00" WEST A DISTANCE OF 12.00 FEET TO A POINT; THENCE RUN ALONG AND COINCIDENT WITH THE EASTERLY RIGHT OF WAY LINE OF BROOK HIGHLAND PARKWAY NORTH 63°29'00" A DISTANCE OF 518.37 FEET TO A POINT; THENCE RUN ALONG AND COINCIDENT WITH THE EASTERLY RIGHT OF WAY LINE OF BROOK HIGHLAND PARKWAY 29°31'00" WEST A DISTANCE OF 20.00 FEET TO A POINT; THENCE RUN ALONG AND COINCIDENT WITH THE EASTERLY RIGHT OF WAY LINE OF BROOK HIGHLAND PARKWAY, ALONG THE ARC OF A CURVE AN ARC DISTANCE OF 501.28 FEET (SAID CURVE HAVING A RADIUS OF 635.12 FEET, A CHORD BEARING OF NORTH 40°52'21" EAST, A CHORD DISTANCE OF 488.37 FEET) TO A POINT; THENCE LEAVING THE RIGHT OF WAY LINE OF BROOK HIGHLAND PARKWAY RUN SOUTH 89°50'48" EAST, A DISTANCE OF 85.21 FEET TO A POINT; THENCE RUN SOUTH 00°38'38" EAST, A DISTANCE OF 355.06 FEET TO A POINT; SAID POINT BEING THE POINT OF BEGINNING.

SAID TRACT BEING DESIGNATED AS PROPOSED "PHASE II" ON THAT CERTAIN SURVEY FOR A.B. SHOPPING CENTERS PROPERTIES, PREPARED BY CARR & ASSOCIATES ENGINEERS, INC., BEARING THE SEAL AND CERTIFICATION OF BARTON F. CARR, REGISTERED PROFESSIONAL LAND SURVEYOR NO 16685, DATED NOVEMBER 25, 1994, LAST REVISED DECEMBER 21, 1994.